

REMARKS/ARGUMENT

Description of Amendments

Claim 34 is currently amended to include the word “in” that was inadvertently omitted from the prior response. No new matter is introduced. Claims 34-51 remain pending.

Reconsideration and removal of the rejections are respectfully requested.

Rejections under 35 U.S.C. §102

Claims 34-38, 40, 42, 43, 45, 46, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,947,975 (“*Kikuchi*”). Applicant respectfully traverses.

Claim 34

Kikuchi fails to expressly or inherently describe “wherein the elastic backing support is in a relaxed state when the lens holder is in the open position, and wherein the elastic backing support is elastically deformed when the lens holder is in the closed position,” as recited in claim 34.

The Office states that *Kikuchi* discloses “a lens holder including two reinforced peripheral regions (5a, 5b), [a] backing support (5) formed of plastic having elasticity (column 7, lines 4-5)” (Office Action at 2). As best understood, the Office equates the bottom part of *Kikuchi*’s enclosing member (5) with the “backing support” of claim 34. The bottom part of the enclosing member (5) is shown in *Kikuchi* FIGS. 14 and 15, which are reproduced below with Applicant’s notations in boxes.

FIG. 14

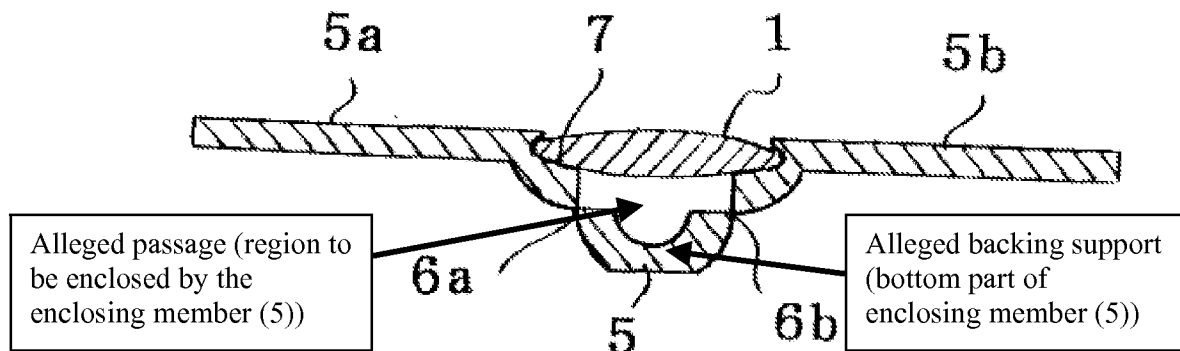
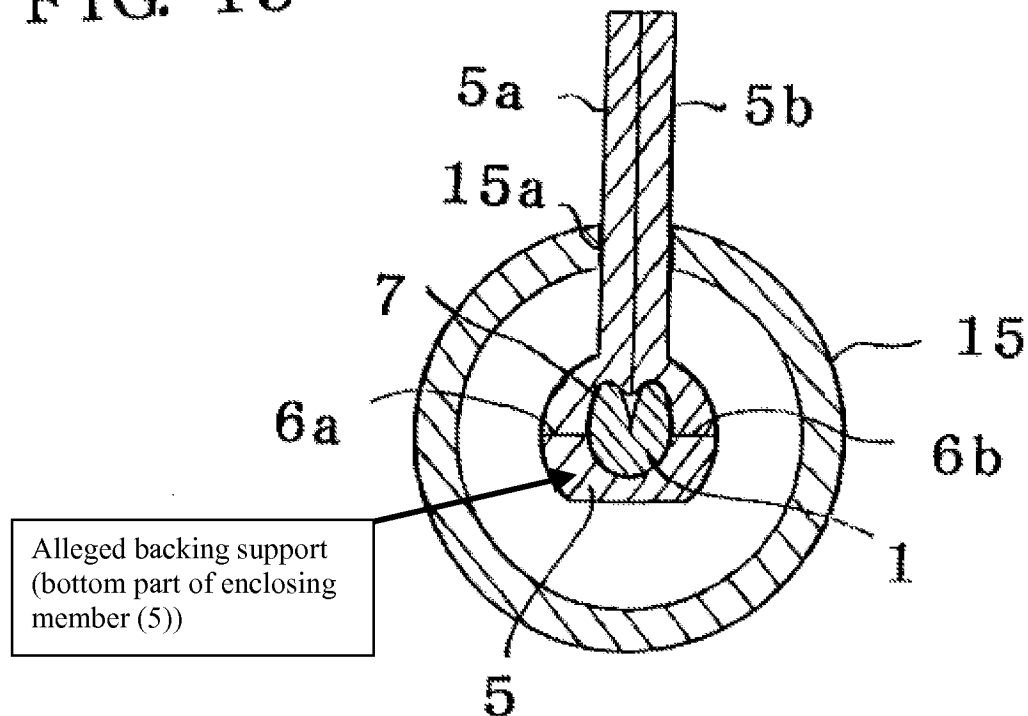


FIG. 15



FIGS. 14 and 15 above show the enclosing member (5) opened and closed, respectively. There is no indication in FIGS. 14 and 15 or anywhere else in *Kikuchi* that the bottom part of the enclosing member (5) “is in a relaxed state” when the enclosing member (5) is opened (FIG. 14), or that the enclosing member (5) “is elastically deformed” when the enclosing member (5) is closed (FIG. 15). Therefore, the bottom part of the enclosing member (5) fails to meet the above-quoted elements for the “backing support” of claim 34.

Kikuchi fails to anticipate claim 34 even if the Office were to assert that the claimed “backing portion” corresponds to the bottom part of the enclosing member (5) together with the hinges (6a, 6b). There is no indication in FIGS. 14 and 15 that any one of the hinges (6a, 6b) “is in a relaxed state” when the enclosing member (5) is opened (FIG. 14), or that any one of the hinges (6a, 6b) “is elastically deformed” when the enclosing member (5) is closed (FIG. 15). Therefore, the bottom part of the enclosing member (5) with any one of the hinges (6a, 6b) fails to meet the above-quoted elements for the “backing support” of claim 34.

The Office relies on *Kikuchi*’s disclosure that the “enclosing member 5 is preferably formed from a plastic having elasticity” (col. 7, lines 4 & 5). However, this disclosure fails

to meet the above-quoted elements of claim 34. There is no teaching that any portion of the enclosing member (5) is in a relaxed or deformed state when opened or closed.

Applicant reminds the Office that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (MPEP §2131). Furthermore, “[t]o establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill” (MPEP §2112, IV) (emphasis added). Here, the evidence relied upon by the Office (col. 7, lines 4 & 5) does not make clear that the above-quoted elements for the backing support in claim 34 are necessarily present in the *Kikuchi* device.

Accordingly, Applicant respectfully submits that claim 34 is patentably allowable over *Kikuchi*.

Claims 38 and 46

Kikuchi fails to inherently or expressly describe “a spherical depression in the elastic backing support,” as recited in claims 38 and 46.

As explained above for claim 34, the Office equates the bottom part of the enclosing member (5) with the claimed “backing support.” There is no inherent or express description in *Kikuchi* of a spherical depression in any part of the enclosing member (5). The Office cites *Kikuchi* FIG. 15, but no spherical depression is shown. Applicant notes that “[i]nherency ... may not be established by probabilities or possibilities...” (MPEP §2112). The Office’s assertion of the existence of a spherical depression in the *Kikuchi* device amounts to speculation and fails to meet the burden of proof for inherency.

Accordingly, Applicant respectfully submits that claims 38 and 46 are patentably allowable over *Kikuchi*.

Claim 42

Kikuchi fails to inherently or expressly describe “the passage formed in the closed position of the lens holder has a snail-shaped cross-section at one of the passage’s ends,” as recited in claim 42.

The Office does not indicate what portion of the *Kikuchi* device corresponds to the “passage” of claim 42.

Even if the Office alleges that the claimed “passage” corresponds to the region enclosed by the enclosing member (5) (see FIG. 14 reproduced above), there is no disclosure in *Kikuchi* of “a snail-shaped cross-section” or spiral at any one of the alleged passage’s ends. A “snail-shaped cross-section” refers to a spiral, as snails are known to have a spiral shell (see, e.g., WEBSTER’S II NEW RIVERSIDE UNIVERSITY DICTIONARY (Anne H. Soukhanov & Kaethe Ellis eds. 1988) at 1099 (copy attached)).

Accordingly, Applicant respectfully submits that claim 42 is patentably allowable over *Kikuchi*.

Claims 35-37, 40, 42, 43, 45 and 48

All other claims rejected as anticipated by *Kikuchi* (e.g., claims 35-37, 40, 42, 43, 45 and 48) depend from base claim 34 and, thereby, include all the elements of claim 34, and are patentably allowable over *Kikuchi* for at least the same reasons given above for claim 34.

Rejections under 35 U.S.C. §103

Kikuchi in view of Heyman

Claims 39, 41 and 47 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Kikuchi* in view of U.S. Patent No. 5,810,834 (“*Heyman*”).

Heyman fails to cure the deficiencies of *Kikuchi* with respect to claim 34, so claim 34 is patentably allowable over *Kikuchi* in view of *Heyman*. Claims 39, 41 and 47 depend from base claim 34 and, thereby, include all the elements of claim 34, and are patentably allowable over *Kikuchi* in view of *Heyman* for at least the same reasons that claim 34 is patentably allowable.

Kikuchi in view of Buboltz

Claims 44, 49 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Kikuchi* in view of U.S. Patent No. 5,171,241 (“*Buboltz*”).

Buboltz fails to cure the deficiencies of *Kikuchi* with respect to claim 34, so claim 34 is patentably allowable over *Kikuchi* in view of *Buboltz*. Claims 44, 49, and 50 depend from

base claim 34 and, thereby, include all the elements of claim 34, and are patentably allowable over *Kikuchi* in view of *Buboltz* for at least the same reasons that claim 34 is patentably allowable.

Kikuchi in view of Eagles

Claim 51 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Kikuchi* in view of U.S. Patent No. 5,616,148 ("*Eagles*").

Eagles fails to cure the deficiencies of *Kikuchi* with respect to claim 34, so claim 34 is patentably allowable over *Kikuchi* in view of *Eagles*. Claim 51 depends from claim 34, includes all the elements of claim 34, and is patentably allowable over *Kikuchi* in view of *Eagles* for at least the same reasons that claim 34 is patentably allowable.

Conclusion

In light of the foregoing, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 07-1850.

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Webster's II New Riverside University Dictionary
(Anne H Soukhanov & Kaethe Ellis eds. 1988)

New Riverside University Dictionary



The Riverside Publishing Company

WEBSTER'S II

nitrocellulose, which produces little or no smoke, used in projectiles and small artillery rockets.

smoker (smŏ'kŏr) *n.* 1. One that smokes. 2. A railroad car in which smoking is permitted. 3. An informal social gathering for men.

smoke screen *n.* 1. A mass of dense artificial smoke used to conceal military areas or operations from an enemy. 2. An action or statement used to conceal actual plans or intentions.

smoke-stack (smŏk'stāk') *n.* A large chimney or vertical pipe through which combustion vapors, gases, and smoke are discharged.

smoke tree *n.* [From the resemblance of the flower clusters to puffs of smoke.] A tree, *Cotinus obovatus* of the southern United States, or *C. coggygia* of Eurasia, having plumelike clusters of small yellowish flowers.

smok-ey (smŏ'kē) *n.* [From the resemblance of some state troopers' hats to that of Smokey the Bear, an animal who warns against fires in U.S. Forest Service posters.] *Slang.* A law-enforcement officer on highway patrol.

smoking car *n.* **SMOKER 2.**

smoking gun *n.* *Informal.* Indisputable evidence or proof, esp. of a crime.

smoking jacket *n.* An evening jacket, often made of a fine fabric, elaborately trimmed, and usu. worn at home.

smoking room *n.* A room, as in a hotel or private club, set aside for smokers.

smoking-room (smŏk'ing-rŏm', -rŏm') *adj.* Marked by indecency: **OBSCENE** <smoking-room humor>

smoky (smŏ'kē) *adj.* -*ier*, -*iest*. 1. Emitting smoke profusely. 2. Mixed or filled with smoke. 3. Resembling smoke. 4. Discolored or soiled with or as if with smoke. 5. Tasting of smoke. —**smok'i-ly** *adv.* —**smok'i-ness** *n.*

smoky quartz *n.* Cairngorm.

smolder also **smoulder** (smŏl'dŏr) *vi.* -*dered*, -*dering*, -*ders*. [ME *smolderen* <*smolder*, *smolder*.] 1. To burn with little smoke and no flame. 2. To exist in a suppressed state. 3. To manifest repressed anger or hatred. —**smol'dŏr**, **smol'dŏr** *n.*

smolt (smŏlt) *n.* [ME.] A young salmon at the stage at which it migrates from fresh water to the sea.

smooch (smŏtʃ) *n.* [Perh. imit. of the sound of a kiss.] *Slang.* A kiss. —*vi.* **smooched**, **smooching**, **smoochee**. *Slang.* To kiss.

smooth (smŏth) *adj.* -*er*, -*est*. [ME *smothe* < OE *smōð*.] 1. Having a surface free from roughness, irregularities, or projections: **EVEN**.

2. Fine in texture. 3. Even in consistency <a smooth pudding>.

4. Having an even or gentle motion <a smooth ride>.

5. Having no difficulties or obstructions <a smooth sales operation>.

6. Serene.

7. Bland <a smooth wine>.

8. Artfully suave: **INGRATIATING** <smooth talker> —*v.* **smoothed**, **smoothing**, **smoothes**. —*vt.*

1. To make (a surface) even, level, or unwrinkled. 2. To rid of obstructions, hindrances, or difficulties. 3. To make calm: **SOOTHE**.

4. To make less harsh or crude: **REFINE**. —*vi.* 1. To become smooth. —*n.* 1. A smooth part or surface. 2. An act of smoothing.

—**smooth'er** *n.* —**smooth'ly** *adv.* —**smooth'ness** *n.*

smooth-bore also **smooth bore** (smŏth'bŏr', -bŏr') *adj.* Having no rifling within the barrel <a smoothbore firearm>.

—**smooth'bore** *n.*

smooth breathing *n.* The symbol (') written over some initial vowels in classical Greek to indicate that they are not aspirated.

smooth'en (smŏth'ən) *vt.* & *vi.* -*ened*, -*ening*, -*ens*. To make or become smooth.

smoothie also **smooth-y** (smŏth'ē) *n.* *Slang.* An assured, artfully ingratiating person.

smooth muscle *n.* The unstriated involuntary muscle of the internal organs, as of the intestine, bladder, and blood vessels, excluding the heart.

smooth-tongued (smŏth'tŭngd') *adj.* Speaking in a pleasing, flattering way.

smooth-y (smŏth'ē) *n.* *var.* of **SMOOTHIE**.

smorgas-bord (smŏr'gas-bŏrd', -bŏrd') *n.* [Swed. *smörgåsbord*: *smörgå*, sandwich + *bord*, table.] A buffet meal featuring a varied number of dishes.

smote (smŏt) *v.* *p.t.* & *var. p.p.* of **SMITE**.

smother (smŏth'ŏr) *v.* -*ered*, -*ering*, -*ers*. [ME *smotheren* < *smother*, dense smoke.] —*vt.* 1. *a.* To suffocate (another). *b.* To deprive (a fire) of the oxygen necessary for combustion. 2. To conceal: suppress <smothered the true facts>.

3. To cover (a foodstuff) thickly with another foodstuff <smother chicken in sauce>.

4. To lavish a given emotion on (someone) <smothered me with their love> —*vi.* 1. *a.* To suffocate. *b.* To be extinguished. 2. To be concealed or suppressed. 3. To be lavished with a given emotion. —*n.* Something, as a dense cloud of smoke, that smothers. —**smoth'ery** *adj.*

smoulder (smŏl'dŏr) *v.* & *n.* *var.* of **SMOLDER**.

smudge (smŏdʒ) *v.* **smudged**, **smudging**, **smudges**. [ME *smogen*.] —*vt.* 1. To make dirty. 2. To smear: blur. 3. To fill (a

planted area) with dense smoke from a smudge pot in order to prevent damage from insects or frost. —*vi.* 1. To smear, as with dirt, soot, or ink. 2. To be smudged. —*n.* 1. A blotch: smear. 2. A smoky fire used as a protection against insects or frost. —**smudg'i-ly** *adv.* —**smudg'i-ness** *n.* —**smudgy** *adj.*

smudge pot *n.* A receptacle in which a smoky fuel, as oil, is burned, so as to protect an orchard from insects or frost.

smug (smŏg) *adj.* **smugger**, **smug-gest**. [Prob. < LG *smuck*, near < MLG < *smucken*, to adorn.] Self-righteously complacent.

—**smug'ly** *adv.* —**smug'ness** *n.*

smuggle (smŏg'əl) *v.* -*gled*, -*gling*, -*gles*. [LG *smuggeln*.] —*vt.*

1. To import or export without paying lawful customs charges or duties. 2. To bring in or take out illicitly or secretly. —*vi.* To engage in smuggling. —**smuggler** *n.*

* **syns:** **SMUGGLE**, **BOOTLEG**, **CONTRABAND**, **RUN** *v. core mean-*

ing: to import or export secretly and illegally <smuggled cocaine from South America>

smut (smŏt) *n.* [Alteration of *smot*, stain < ME *smotten*, to be smirch.] 1. *a.* A particle of dirt. *b.* A smudge made by soot, smoke, or dirt. 2. Obscenity. 3. *a.* Any of various plant diseases caused by fungi of the order *Ustilaginales* that result in the formation of black powdery masses of spores on the affected parts. *b.* A fungus causing a plant disease. —*v.* **smutted**, **smut-ting**, **smuts**. —*vt.* 1. To blacken or smudge, as with smoke or grime. 2. To affect (a plant) with smut. 3. To free (e.g., grain) from smut. 4. To make obscene. —*vi.* 1. To emit smut. 2. To be or become blackened or smudged. 3. To become affected with smut, as a plant. —**smut'ti-ly** *adv.* —**smut'ti-ness** *n.* —**smut'ty** *adj.*

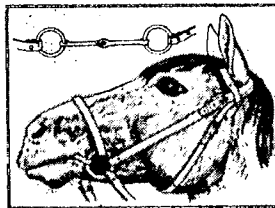
smutch (smŏtʃ) *vt.* **smutched**, **smutching**, **smutchee**. [Perh. alteration of **SMUDGE**.] To soil or stain. —**smutch** *n.* —**smutch'y** *adj.*

Sn [< Lat. *stannum*, tin.] *symbol for TIN.*

snack (snāk) *n.* [ME *snake*, a bite < *snaken*, to bite.] 1. A hurried or light meal. 2. Food eaten between meals. —*vi.* **snacked**, **snack-ing**, **snacks**. To eat a hurried or light meal.

snack bar *n.* A lunch counter where light meals are served.

snaffle (snā'fəl) *n.* [Orig. unknown.] A bit for a horse, consisting of two bars jointed at the center. —*vt.* -*fled*, -*fling*, -*fles*. To put on or control with a snaffle.



snaffle

snafu (snā'fŏ) [S(ITUATION) + N(ORMAL) + A(LL) + F(OULED) + U(P).] *Slang.* —*adj.* In a state of complete confusion. —*vt.* -*fued*, -*fuing*, -*fua*. To make chaotic or confused. —**snafu'** *n.*

snag (snāg) *n.* [Of Scand. orig.] 1. A sharp, rough, or jagged protuberance. 2. A tree or a part of a tree that protrudes above the surface in a body of water. 3. A snaggletooth. 4. A break, pull, or tear in a fabric. 5. An unforeseen or hidden obstacle. —*v.* **snagged**, **snag-ging**, **snags**. —*vt.* 1. To hinder, break, tear, or destroy by or as if by a snag. 2. To free of snags. 3. *Informal.* To catch unexpectedly and quickly. —*vi.* To be damaged by a snag. —**snaggy** *adj.*

snaggle-tooth (snāg'əl-tŏth') *n.* [Dial. *snaggled*, irregular (< *snag*) + *tooth*.] A broken or unaligned tooth.

snail (snāl) *n.* [ME < OE *snægl*.] 1. Any of numerous aquatic or terrestrial mollusks of the class *Gastropoda*, with a spiral, coiled shell, a broad retractile foot, and a distinct head. 2. A slow-moving, lazy, or sluggish person.

snail-pace also **schistocromis** *n.*

snail-paced (snāl'pās') *adj.* Moving very slowly.

snake (snāk) *n.* [ME < OE *snaca*.] 1. Any of various scaly, legless, ocella, venomous reptiles of the suborder *Serpentes*, having a long, tapering, cylindrical body. 2. **Snake**. **HYDRA 3. 3.** A treacherous person. 4. A long, highly flexible metal wire used for cleaning drains. 5. The concept of fixing the value of currencies to each other within defined parameters, which, when graphed visually, show the currencies remaining parallel in value to each other as a unit despite fluctuations with other currencies. —*v.* **snaked**, **snaking**, **snakes**. —*vt.* 1. To drag or pull lengthwise, esp. to drag with a rope or chain. 2. To pull with quick jerks. 3. To move like a snake. —*vi.* To move with a snakelike motion: **CRAWL**.

snake-bird (snāk'bŭrd') *n.* A long-necked, long-billed bird of the genus *Anhinga*, as the water turkey.

snake-bite (snāk'bīt') *n.* 1. The bite of a snake. 2. Poisoning resulting from the bite of a venomous snake.

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yŏ abuse zh vision ȧ about, item, edible, gallop, circus